

AMENDED IN SENATE JULY 2, 1997  
AMENDED IN SENATE JUNE 17, 1997  
AMENDED IN ASSEMBLY MARCH 31, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 772**

**Introduced by Assembly Member Margett**

February 26, 1997

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An act to amend Sections 7028 and 7071.17 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 772, as amended, Margett. Contractors.

(1) Existing law provides that it is a misdemeanor for any person to engage in the business or act in the capacity of a contractor within this state without having a license therefor, with specified exceptions.

This bill would specify that the license must be current and active, *or remains subject to renewal, or has been renewed, as specified*. In so doing, the bill would expand the scope of persons subject to the criminal penalty and thus impose a state-mandated local program.

(2) Existing law provides that when any person licensed to engage in business as a contractor is named as a judgment debtor in an unsatisfied final judgment, the qualifying person and any member of that licensee or personnel of the licensee are automatically prohibited from serving as an officer, director, associate, partner, owner, qualifying individual, or

other personnel of record of another licensee. Existing law provides that this suspension constitutes a disassociation of the qualifying individual or a license cancellation, and provides that if a qualifier who is disassociated is not replaced within 90 days, this shall result in the automatic suspension of the license.

This bill would instead, with respect to the effect of the prohibition against serving as an officer, director, associate, partner, owner, qualifying individual, or other personnel of another licensee, provide that the prohibition shall cause the license of any other existing renewable licensed entity with any of the same personnel of record as the judgment debtor licensee to be suspended until the license of the judgment debtor is reinstated or until those same personnel of record disassociate themselves from the renewable licensed entity.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7028 of the Business and  
2 Professions Code is amended to read:

3 ~~7028. (a) It is a misdemeanor for any person to~~  
4 ~~engage in the business or act in the capacity of a~~  
5 ~~contractor within this state without having a current and~~  
6 ~~active license therefor, unless such person is particularly~~  
7 ~~exempted from the provisions of this chapter. However,~~  
8 ~~with respect to a license that has expired, the~~  
9 ~~misdemeanor penalty is only applicable after a 90-day~~  
10 ~~period has lapsed following the renewal date of the~~  
11 ~~license.~~

12 7028. (a) Unless particularly exempted from the  
13 provisions of this chapter, it is a misdemeanor for any  
14 person to engage in the business or act in the capacity of

1 *a contractor within this state without having a license*  
2 *therefor that is current and active, or which remains*  
3 *subject to renewal for the 90-day period specified in*  
4 *Section 7141.5, or has been renewed accordingly.*

5 (b) If such a person has been previously convicted of  
6 the offense described in this section, the court shall  
7 impose a fine of 20 percent of the price of the contract  
8 under which the unlicensed person performed  
9 contracting work, or four thousand five hundred dollars  
10 (\$4,500), whichever is greater, or imprisonment in the  
11 county jail for not less than 10 days nor more than six  
12 months, or both.

13 (c) In the event the person performing the  
14 contracting work has agreed to furnish materials and  
15 labor on an hourly basis, “the price of the contract” for the  
16 purposes of this section means the aggregate sum of the  
17 cost of materials and labor furnished and the cost of  
18 completing the work to be performed.

19 (d) Notwithstanding any other provision of law to the  
20 contrary, an indictment for any violation of this section by  
21 a person who does not have a current and active  
22 contractor’s license shall be found or an information or  
23 complaint filed within four years from the date of the  
24 contract proposal, contract, completion, or abandonment  
25 of the work, whichever occurs last.

26 SEC. 2. Section 7071.17 of the Business and  
27 Professions Code is amended to read:

28 7071.17. (a) Notwithstanding any other provision of  
29 law, the board shall require, as a condition precedent to  
30 accepting an application for licensure, renewal,  
31 reinstatement, or to change officers or other personnel of  
32 record, that an applicant, previously found to have failed  
33 or refused to pay a contractor, subcontractor, consumer,  
34 materials supplier, or employee based on an entered and  
35 unsatisfied final judgment from a court of law, file or have  
36 on file with the board a judgment bond sufficient to  
37 guarantee payment of an amount equal to the unsatisfied  
38 final judgment or judgments. The applicant shall have 90  
39 days from the date of notification by the board to file the  
40 bond or the application shall become void and the

1 applicant shall reapply for issuance, reinstatement, or  
2 reactivation of a license. The board may not issue,  
3 reinstate, or reactivate a license until the judgment bond  
4 is filed with the board. The judgment bond is in addition  
5 to the contractor's bond. The bond shall be on file for a  
6 minimum of one year, after which the bond may be  
7 removed by submitting proof of satisfaction of all debts.  
8 The applicant may provide the board with a notarized  
9 copy of any accord, reached with any individual holding  
10 an unsatisfied final judgment, to satisfy a debt in lieu of  
11 filing the bond. The board shall include on the license  
12 application for issuance, reinstatement, or reactivation, a  
13 statement, to be made under penalty of perjury, as to  
14 whether there are any entered and unsatisfied judgments  
15 against the applicant on behalf of contractors,  
16 subcontractors, consumers, materials suppliers, or the  
17 applicant's employees. Notwithstanding any other  
18 provision of law, if it is found that the applicant falsified  
19 the statement then the license will be retroactively  
20 suspended to the date of issuance and the license will stay  
21 suspended until the judgment bond, satisfaction of  
22 judgment, or notarized copy of an accord reached with  
23 any individual holding an unsatisfied final judgment is  
24 filed.

25 (b) Notwithstanding any other provision of law, the  
26 licensee shall notify the registrar in writing of any entered  
27 and unsatisfied judgments within 90 days from the date  
28 of judgment. If the licensee fails to notify the registrar in  
29 writing within 90 days, the license shall be automatically  
30 suspended on the date that the registrar is informed, or  
31 is made aware of the unsatisfied judgment. The  
32 suspension shall not be removed until proof of satisfaction  
33 of judgment, or in lieu thereof, a notarized copy of an  
34 accord is submitted to the registrar. If the licensee notifies  
35 the registrar in writing within 90 days of the date of  
36 judgment of any entered and unsatisfied judgments, the  
37 board shall require as a condition to the continual  
38 maintenance of the license that the licensee file or have  
39 on file with the board a judgment bond sufficient to  
40 guarantee payment of an amount equal to the unsatisfied

1 judgment or judgments. The licensee has 90 days from  
2 date of notification by the board to file the bond or at the  
3 end of the 90 days the license shall be automatically  
4 suspended. The licensee may provide the board with a  
5 notarized copy of any accord, reached with any individual  
6 holding an unsatisfied final judgment, to satisfy a debt in  
7 lieu of filing the bond.

8 (c) By operation of law, failure to maintain the bond  
9 or failure to abide by the accord shall result in the  
10 automatic suspension of any license to which this section  
11 applies.

12 (d) A license that is suspended for failure to file the  
13 bond, maintain the bond, or abide by the accord, can only  
14 be reinstated when proof of satisfaction of all debts is  
15 made, or when a notarized copy of an accord, reached  
16 with any individual holding an unsatisfied final judgment,  
17 has been filed.

18 (e) This section applies only with respect to an  
19 unsatisfied judgment that is substantially related to the  
20 construction activities of a licensee licensed under this  
21 chapter, or to the qualifications, functions, or duties of the  
22 ~~licensee being applied for.~~

23 (f) This section shall not apply to an applicant or  
24 licensee when a bankruptcy proceeding has been filed.

25 (g) Except as otherwise provided, the judgment bond  
26 shall remain in full force in the amount posted until the  
27 entire debt is satisfied. If, at the time of renewal, the  
28 licensee submits proof of partial satisfaction of the  
29 outstanding final judgment, the board may authorize the  
30 judgment bond be reduced to the amount of the  
31 unsatisfied portion of the outstanding judgment. When  
32 the licensee submits proof of satisfaction of all debts, the  
33 judgment bond requirement may be removed.

34 (h) The board shall take the actions required by this  
35 section upon notification by any party having knowledge  
36 of the outstanding judgment upon a showing of proof of  
37 the judgment.

38 (i) For the purposes of this section, the term  
39 “judgment” includes any final arbitration award.

1 (j) The qualifying person and any member of the  
2 licensee or personnel of the licensee named as a judgment  
3 debtor in an unsatisfied final judgment from a court of law  
4 shall be automatically prohibited from serving as an  
5 officer, director, associate, partner, owner, qualifying  
6 individual, or other personnel of record of another  
7 licensee. This prohibition shall cause the license of any  
8 other existing renewable licensed entity with any of the  
9 same personnel of record as the judgment debtor licensee  
10 to be suspended until the license of the judgment debtor  
11 is reinstated or until those same personnel of record  
12 disassociate themselves from the renewable licensed  
13 entity.

14 (k) For purposes of this section, a cash deposit may be  
15 submitted in lieu of the judgment bond.

16 SEC. 3. No reimbursement is required by this act  
17 pursuant to Section 6 of Article XIII B of the California  
18 Constitution because the only costs that may be incurred  
19 by a local agency or school district will be incurred  
20 because this act creates a new crime or infraction,  
21 eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section  
23 17556 of the Government Code, or changes the definition  
24 of a crime within the meaning of Section 6 of Article  
25 XIII B of the California Constitution.

26 Notwithstanding Section 17580 of the Government  
27 Code, unless otherwise specified, the provisions of this act  
28 shall become operative on the same date that the act  
29 takes effect pursuant to the California Constitution.

